

REFERENCE TITLE: judicial appointment commissions; nonattorney members

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

# SCR 1001

Introduced by  
Senator Gray C

## A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE VI, SECTIONS 36 AND 41, CONSTITUTION OF ARIZONA; RELATING TO THE JUDICIAL DEPARTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. Article VI, sections 36 and 41, Constitution of Arizona, are proposed to be amended as follows if approved by the voters and on proclamation of the Governor:

36. Commission on appellate court appointments and terms, appointments and vacancies on commission

Section 36. A. There shall be a nonpartisan commission on appellate court appointments which shall be composed of the chief justice of the supreme court, who shall be chairman, five attorney members, who shall be nominated by the board of governors of the state bar of Arizona and appointed by the governor with the advice and consent of the senate in the manner prescribed by law, and ten nonattorney members who shall be appointed by the governor with the advice and consent of the senate in the manner prescribed by law. At least ninety days ~~prior to~~ BEFORE a term expiring or within twenty-one days of a vacancy occurring for a nonattorney member on the commission for appellate court appointments, the governor shall appoint a nominating committee of nine members, not more than five of whom may be from the same political party. The makeup of the committee shall REFLECT, to the extent feasible, ~~reflect~~ the diversity of the population of the state. Members shall not be attorneys and shall not hold any governmental office, elective or appointive, for profit. The committee shall provide public notice that a vacancy exists and shall solicit, review and forward to the governor all applications along with the committee's recommendations for appointment.

B. Attorney members of the commission shall have resided in the state and shall have been admitted to practice before the supreme court for not less than five years. Not more than three attorney members shall be members of the same political party and not more than two attorney members shall be residents of any one county. Nonattorney members shall have resided in the state for not less than five years and shall not be judges, retired judges or CURRENTLY OR PREVIOUSLY admitted to practice before the supreme court OF ANY STATE OR ANY OTHER COURT OR TRIBUNAL. Not more than five nonattorney members shall be members of the same political party. Not more than two nonattorney members shall be residents of any one county. None of the attorney or nonattorney members of the commission shall hold any governmental office, elective or appointive, for profit, and no attorney member shall be eligible for appointment to any judicial office of the state until one year after he ceases to be a member. Attorney members of the commission shall serve

1 staggered four-year terms and nonattorney members shall serve  
2 staggered four-year terms. Vacancies shall be filled for the  
3 unexpired terms in the same manner as the original appointments.

4 ~~B.~~ C. No person other than the chief justice shall serve  
5 at the same time as a member of more than one judicial  
6 appointment commission.

7 ~~C.~~ D. In making or confirming appointments to the  
8 appellate court commission, the governor, the senate and the  
9 state bar shall endeavor to see that the commission reflects the  
10 diversity of Arizona's population.

11 E. In the event of the absence or incapacity of the  
12 chairman the supreme court shall appoint a justice thereof to  
13 serve in his place and stead.

14 ~~D.~~ F. ~~Prior to~~ BEFORE making recommendations to the  
15 governor ~~as hereinafter provided~~, the commission shall conduct  
16 investigations, hold public hearings and take public testimony.  
17 An executive session as prescribed by rule may be held upon a  
18 two-thirds vote of the members of the commission in a public  
19 hearing. Final decisions as to recommendations shall be made  
20 without regard to political affiliation in an impartial and  
21 objective manner. The commission shall consider the diversity  
22 of the state's population, however the primary consideration  
23 shall be merit. Voting shall be in a public hearing. The  
24 expenses of meetings of the commission and the attendance of  
25 members ~~thereof~~ for travel and subsistence shall be paid from  
26 the general fund of the state as state officers are paid, upon  
27 claims approved by the chairman.

28 ~~E.~~ G. After public hearings the supreme court shall  
29 adopt rules of procedure for the commission on appellate court  
30 appointments.

31 ~~F. Notwithstanding the provisions of subsection A, the~~  
32 ~~initial appointments for the five additional nonattorney members~~  
33 ~~and the two additional attorney members of the commission shall~~  
34 ~~be designated by the governor for staggered terms as follows:~~

35 ~~1. One appointment for a nonattorney member shall be for~~  
36 ~~a one-year term.~~

37 ~~2. Two appointments for nonattorney members shall be for~~  
38 ~~a two-year term.~~

39 ~~3. Two appointments for nonattorney members shall be for~~  
40 ~~a three-year term.~~

41 ~~4. One appointment for an attorney member shall be for a~~  
42 ~~one-year term.~~

43 ~~5. One appointments for an attorney member shall be for a~~  
44 ~~two-year term.~~

~~G. The members currently serving on the commission may continue to serve until the expiration of their normal terms. All subsequent appointments shall be made as prescribed by this section.~~

41. Superior court divisions: commission on trial court appointments: membership: terms

A. Except as otherwise provided, judges of the superior court in counties having a population of two hundred fifty thousand persons or more according to the most recent United States census shall hold office for a regular term of four years.

B. There shall be a nonpartisan commission on trial court appointments for each county having a population of two hundred fifty thousand persons or more according to the most recent United States census which shall be composed of the following members:

1. The chief justice of the supreme court, who shall be the chairman of the commission. In the event of the absence or incapacity of the chairman the supreme court shall appoint a justice thereof to serve in his place and stead.

2. Five attorney members, none of whom shall reside in the same supervisorial district and not more than three of whom shall be members of the same political party, who are nominated by the board of governors of the state bar of Arizona and who are appointed by the governor subject to confirmation by the senate in the manner prescribed by law.

3. Ten nonattorney members, no more than two of whom shall reside in the same supervisorial district.

C. At least ninety days ~~prior to~~ BEFORE a term expiring or within twenty-one days of a vacancy occurring for a nonattorney member on the commission for trial court appointments, the member of the board of supervisors from the district in which the vacancy has occurred shall appoint a nominating committee of seven members who reside in the district, not more than four of whom may be from the same political party. The ~~make-up~~ MAKEUP of the committee shall REFLECT, to the extent feasible, ~~reflect~~ the diversity of the population of the district. Members shall not be attorneys and shall not hold any governmental office, elective or appointive, for profit. The committee shall provide public notice that a vacancy exists and shall solicit, review and forward to the governor all applications along with the committee's recommendations for appointment. The governor shall appoint two persons from each supervisorial district who shall not be of the

1 same political party, subject to confirmation by the senate in  
2 the manner prescribed by law.

3 D. In making or confirming appointments to trial court  
4 commissions, the governor, the senate and the state bar shall  
5 endeavor to see that the commission reflects the diversity of  
6 the county's population.

7 E. Members of the commission shall serve staggered four  
8 year terms. ~~except that initial appointments for the five~~  
9 ~~additional nonattorney members and the two additional attorney~~  
10 ~~members of the commission shall be designated by the governor as~~  
11 ~~follows:~~

12 1. ~~One appointment for a nonattorney member shall be for~~  
13 ~~a one-year term.~~

14 2. ~~Two appointments for nonattorney members shall be for~~  
15 ~~a two-year term.~~

16 3. ~~Two appointments for nonattorney members shall be for~~  
17 ~~a three-year term.~~

18 4. ~~One appointment for an attorney member shall be for a~~  
19 ~~one-year term.~~

20 5. ~~One appointment for an attorney member shall be for a~~  
21 ~~two-year term.~~

22 F. Vacancies shall be filled for the unexpired terms in  
23 the same manner as the original appointments.

24 G. Attorney members of the commission shall have resided  
25 in this state and shall have been admitted to practice in this  
26 state by the supreme court for at least five years and shall  
27 have resided in the supervisorial district from which they are  
28 appointed for at least one year. Nonattorney members shall have  
29 resided in this state for at least five years, shall have  
30 resided in the supervisorial district for at least one year  
31 before being nominated and shall not be judges, retired judges  
32 ~~nor~~ OR CURRENTLY OR PREVIOUSLY admitted to practice before the  
33 supreme court OF ANY STATE OR ANY OTHER COURT OR TRIBUNAL. None  
34 of the attorney or nonattorney members of the commission shall  
35 hold any governmental office, elective or appointive, for profit  
36 and no attorney member is eligible for appointment to any  
37 judicial office of this state until one year after membership in  
38 the commission terminates.

39 H. No person other than the chief justice shall serve at  
40 the same time as a member of more than one judicial appointment  
41 commission.

42 I. The commission shall submit the names of not less than  
43 three individuals for nomination for the office of the superior  
44 court judge pursuant to section 37 of this article.

1 J. Prior to making recommendations to the governor, the  
2 commission shall conduct investigations, hold public hearings  
3 and take public testimony. An executive session as prescribed  
4 by rule may be held upon a two-thirds vote of the members of the  
5 commission in a public hearing. Final decisions as to  
6 recommendations shall be made without regard to political  
7 affiliation in an impartial and objective manner. The  
8 commission shall consider the diversity of the county's  
9 population and the geographical distribution of the residences  
10 of the judges throughout the county, however the primary  
11 consideration shall be merit. Voting shall be in a public  
12 hearing. The expenses of meetings of the commission and the  
13 attendance of members ~~thereof~~ for travel and subsistence shall  
14 be paid from the general fund of the state as state officers are  
15 paid, upon claims approved by the chairman.

16 K. After public hearings the supreme court shall adopt  
17 rules of procedure for the commission on trial court  
18 appointments.

19 ~~L. The members of the commission who were appointed~~  
20 ~~pursuant to section 36 of this article prior to the effective~~  
21 ~~date of this section may continue to serve until the expiration~~  
22 ~~of their normal terms. All subsequent appointments shall be~~  
23 ~~made as prescribed by this section.~~

24 2. The Secretary of State shall submit this proposition to the voters  
25 at the next general election as provided by article XXI, Constitution of  
26 Arizona.